

## SimComm Academy Limited Terms and Conditions

Last updated: October 14<sup>th</sup> 2024

### 1. Definitions and Interpretations

- 1.1. Within these Terms and Conditions the following words, phrases and expressions have the following meanings:
  - a. The company SimComm Academy Limited is a Company registered in England and Wales (Company Number 9994532)
  - b. “SCA”, “Our”, “Us” and “We” refers to SimComm Academy Limited.
  - c. “SimComm team member(s)” refers to Simulated Patient(s), role player(s) or actor(s) provided by SCA for the purposes of fulfilling the roles as specified by the Client, and agreed to by SCA.
  - d. “Booking” means the contract between SCA and the Client formed by acceptance by SCA of the Client’s order pursuant to these Terms and Conditions, and subsequent Agreements.
  - e. “Client” means the person, firm, company or organisation that purchases services from SCA.
  - f. “Event” and “Assignment” refers to the event or events which are the subject of the quotation and Booking.
  - g. “Agreement(s)” refers to contracts signed by the parties SCA and the Client.
  - h. “Participants” refers to individual persons that attend Events organised by the Client and SCA.
  - i. “the Agreement” refers to this specific Terms and Condition document, and the clauses within.
- 1.2. All headings and formatting are for convenience of reading only, and shall not affect the construction of the Terms and Condition, or interpretation thereof.

### 2. Payment / Invoicing

- 2.1. Clients will be invoiced the amount based on any given quote. If any work is requested and delivered in addition to the original brief and agreed contents, then additional charges will be incurred.
- 2.2. SCA will invoice the Client following scheduled Events. Payment is required to be made by the Client within 30 days of the date of invoice.
- 2.3. If the Client fails to pay in full on the due date any amount which is due to SCA, without prejudice to any other right or remedy of SCA, the amount outstanding shall bear interest both before and after any in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and Late Payment of Commercial Debts Regulations 2002.
- 2.4. Should payment be made in advance of a booking, these funds will be held by SCA for a maximum of 12 months from the date of invoice. Funds cannot be refunded nor carried forward for a further period.

### 3. Bookings

- 3.1. The Client's purchase order or a written/emailed order constitutes an offer by the Client to purchase the services specified in it. Accordingly, the execution and return of any acknowledgement by SCA, or SCA's commencement or execution of work pursuant to a purchase order or written/emailed request shall establish a contract for the supply and purchase of those services on these conditions. The Client's standard terms and conditions (if any) attached to or enclosed with or referred to in any order shall not govern this Booking.
- 3.2. We recognise there may be exceptional circumstances that require a client to request a change to a confirmed booking date, it is at SCA discretion to advise if they are able to meet this request provided advance notice that is greater than 28 working days.

### 4. Provisional bookings

- 4.1. Unless in exceptional circumstances provisional bookings not confirmed by the Client in writing or by electronic mail within 14 days of the Event, will be cancelled.

### 5. Cancellations

#### a. Cancellation of booking by the Client

Within 14 days of the Event, the full booking fee will be charged and payable by the Client. At any other time, an administration fee commensurate with the work undertaken to that time may be charged at our discretion but limited to a maximum of, if within 15-28 days of the Event, 50% of the full booking fee.

#### b. Cancellation of booking by SCA

SCA will use all reasonable endeavours to provide Simulators and services in accordance with the requirements of the Client. In the unlikely event that we are forced to cancel a booking, we will do our utmost to provide the Client with reasonable notice, and take steps as are reasonably practicable to mitigate against such cancellation.

In any event SCA shall be entitled to cancel a booking at any time and for any reason prior to the Event without liability to the Client.

## 6. Simulator care and safety

- 6.1. The Client shall ensure that the SimComm team member/s are treated with respect and professionalism and that the Client takes all steps necessary to ensure that the safety, health and wellbeing is protected and maintained at all times whilst providing services to the Client. Such steps shall include without limitation:
- a. Ensuring that the venue for the provision of the services and the working conditions are safe and secure and allow the SimComm team member/s to provide the services in compliance with all health and safety standards, regulations, codes and laws;
  - b. Allowing the SimComm team member/s to take suitable and regular rest periods, is able to maintain suitable amounts of rest and refreshment whilst delivering the services;
  - c. Providing adequate levels of insurance cover to safeguard the health and safety of the SimComm team member/s whilst delivering the services and travelling to and from the Client's venue as if he/she were an employee of the Client;
  - d. Ensuring that all of the people and organisations which are engaged by the Client in relation to the delivery of the services are suitably qualified, experienced and professional;
  - e. Ensuring that no one imposes upon the SimComm team member/s any action or activity which is either dangerous, degrading, unprofessional or demeaning to the Simulator.

## 7. Warranties

- 7.1. The Client warrants and represents to SCA that:
- a. It has full capacity to enter into these terms and conditions and perform its obligations under these terms and conditions;
  - b. The booking is executed by a duly authorised representative of the Client;
  - c. It will take all steps necessary to ensure that the SimComm team member/s are protected and treated in accordance with all applicable laws, good industry practice and section 6 above
  - d. It has all necessary permits, licences and consents to enter into and to perform its obligations under these terms and conditions and such obligations shall be performed in compliance with all applicable laws, enactments, orders, regulations, and other similar instruments; and
  - e. It will promptly disclose to SCA in writing all necessary information and details relating to the provision of the services to enable SCA to ensure that the SimComm team member(s) are suitably prepared and able to perform the services.

## 8. Commitment and compliance to GDPR regulation and relevant data protection laws

- 8.1. To the extent that any data or information provided to the Client constitutes personal data within active data protection legislation in the United Kingdom, such as UK GDPR, in the territory:
- a. both the Client and SCA agree to commit to compliance with all relevant data protection regulation
  - b. for the purposes of identifiable data of Participants provided by the Client, SCA acts solely as a data processor, unless explicitly stated in subsequent Agreement.
  - c. both the Client and SCA agree to avoid collection of personal, identifiable data of Participants unless required;
  - d. the Client acknowledges that for Events conducted via the Client's internal IT administration, internal network, or intranet, that the Client is responsible for following their internal IT usage policies and is acting a data controller.
  - e. should the Client exist as an entity outside of the United Kingdom, SCA agrees to comply with and follow any additional data protection requirements legally mandated in the territory.
  - f. the Client will process such data and information only in accordance with SCA's instructions and only for the purpose of the Assignment which forms the basis of this Agreement;
  - g. the Client will comply with the Data Protection Act 2018 when handling any personal data provided by SCA or its representatives, including Simulators.
  - h. the Client will not transmit data to a country or territory outside the United Kingdom without SCA's prior express written consent;
  - i. the Client will take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction of, or damage to, personal data.
  - j. the Client will not retain the personal data for any longer than is necessary for performing its agreed obligations, and the Client adheres to following their own data retention schedule.
  - k. SCA is not responsible for the Client's adherence to legal data protection requirements and process.

## 9. Liability and insurance

- 9.1. No party excludes or limits its liability under these terms and conditions for:
- a. death or personal injury caused by its negligence;
  - b. fraud or misrepresentation; or
  - c. any other type of liability which cannot by law be excluded or limited.
- 9.2. Subject to section 5, SCA limits its liability under these terms and conditions, whether such liability arises in contract, tort (including without limitation negligence) or otherwise, so that the maximum liability of SCA for all claims under these terms and conditions shall be limited to and shall not in aggregate exceed the total amount of the fees paid or payable to SCA.
- 9.3. SCA shall not be liable for:
- a. loss of business, use, profit, anticipated profit, contracts, revenues, goodwill or anticipated savings;
  - b. product recall costs;
  - c. failure by the SimComm team member/s to attend a booking / event for whatever reason;
  - d. damage to the Client's reputation; or
  - e. consequential, special or indirect loss or damage; even if SCA has been advised of the possibility of such loss or damage
- 9.4. The Client shall affect and maintain (and shall require its ultimate Client, if any, to maintain) throughout the continuance of this terms and condition insurance policies which provide appropriate coverage adequate enough to cover all liabilities and risks of the Client that may arise under these terms and conditions. Such insurance policies shall include without limitation, insurance to protect the SimComm team members and SCA should any damage, injury or loss be caused whilst the Simulator is providing services to the Client, and extend to cover the activities of the SimComm team member/s whilst travelling to and from the location of the services.

## 10. Complaints and disclaimers

- 10.1. Whilst SCA will use reasonable endeavours to ensure that the SimComm representatives provides a satisfactory and efficient service to Clients, as the agent, SCA cannot be held responsible for a their conduct or behaviour whilst delivering the services and in this regard SCA shall not be held liable for any costs, expenses or losses suffered as a consequence of the behaviour or conduct. Any cause for complaint must be reported to SCA by the Client as soon as it arises. Complaints cannot be considered and/or dealt with effectively after the services have been delivered.

**11. Force Majeure**

- 11.1. SCA shall not be liable to the Client for any delay in performing or failure to perform any of its obligations under these terms and conditions which is due to any cause beyond its control and which is unknown to, and cannot reasonably be anticipated by SCA including without limitation fire, flood or catastrophe, acts of God, insurrection, workforce action, war or riots, (an 'Event of Force Majeure') and SCA's obligations under these terms and conditions shall be suspended for so long as the Event of Force Majeure continues and to the extent that it is so delayed.

**12. Interpretation of terms and conditions**

- 12.1. For the purpose of the relationship between the Client and SCA the Client acknowledges, accepts and agrees that SCA is the supplier of services which shall be strictly and exclusively governed by these terms and conditions. These terms and conditions apply to every offer, quotation, acceptance, purchase order, confirmation order, specification and/or contract for the supply of services or goods (including services ancillary thereto) by SCA and supersede any other terms of the Client and take precedence over and override and exclude any other terms stipulated or incorporated or referred to by the Client whether in the booking confirmation or in any negotiations and any course of dealing established between SCA and the Client.
- 12.2. The Client acknowledges that there are no representations, statements or promises made or given by or on behalf of SCA outside these terms and conditions which have induced the Client to enter into these terms and conditions (which expression shall include any contract of which these terms and conditions form part).
- 12.3. If there is any conflict between any of these terms and conditions and the booking confirmation, then the terms of these terms and conditions shall prevail without detriment to the remaining unaffected terms of booking confirmation.
- 12.4. The booking confirmation forms part of these terms and conditions and shall have effect as if set out in full in the body of these terms and conditions. Any reference to these terms and conditions includes the booking confirmation.
- 12.5. For the purpose of these terms and conditions the word 'agreed', subject to section 1, means by duly authorised representatives of both SCA and the Client.

### **13. Confidentiality**

- 13.1. Except as and to the extent expressly otherwise specified in these terms and conditions, the rights and remedies contained in these terms and conditions are cumulative and are not exclusive of any rights or remedies provided by law or elsewhere in these terms and conditions.
- 13.2. The parties agree to keep, and to instruct its agents, employees, advisers and sub-contractors with knowledge hereof to keep these terms and conditions strictly private and confidential and not to disclose any details relating to the same, subject to disclosure in the following circumstances:
- a. to enable enforcement of the party's rights under these terms and conditions;
  - b. with the prior written consent of the other party; and
  - c. as required by any applicable law.
- 13.3. These terms and conditions and the booking constitute the entire agreement between the parties and, unless explicitly agreed by SCA and the Client, supercede any previous agreement or arrangement between the parties relating to the subject matter of these terms and conditions.

### **14. Waivers & Termination**

- 14.1. If any of the terms, conditions or provisions of these terms and conditions or the booking confirmation are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent, be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.
- 14.2. Any termination of all or part of these terms and conditions shall not affect the coming into force or the continuance in force of any provision of these terms and conditions which is expressly or by implication intended to come into force or continue in force on or after such termination.
- 14.3. Except as otherwise expressly provided in these terms and conditions, all representations, warranties, undertakings, agreements, covenants, indemnities and obligations made or given or entered into by the Client and the ultimate Client under these terms and conditions are assumed by them jointly and severally.
- 14.4. Nothing in these terms and conditions shall render any party a partner or agent of the other. Except as expressly permitted by these terms and conditions, nothing shall allow a party to purport to undertake any obligation on behalf of the other nor expose the other

party to any liability nor pledge or purport to pledge the other's credit.

- 14.5. No failure to exercise and no delay in exercising on the part of either party of any right, power or privileged under these terms and conditions shall operate as a waiver of it. Nor shall any single or partial exercise of any right, power or privilege preclude the enforcement of any other right, power or privilege. Nor shall the waiver of any breach of a provision be taken or held to be a waiver of the provision itself. For a waiver to be effective it must be made in writing.

## **15. Copyright and Intellectual Property**

- 15.1. All scenarios, roles, training content and training programmes supplied by SCA remain the property of SCA, and are not for reproduction. Where scenarios, roles, training content and training programmes are jointly developed with SCA and the Client, their ownership is the shared property of SCA and the Client.
- 15.2. Conferences are subject to a six week notice period, or at the discretion of SCA. If timescales are shorter than six weeks and development costs are incurred before the estimate is accepted, then these costs will be passed onto the Client.
- 15.3. The Client agrees SCA can refer to sessions involving SCA actor role players and facilitators within their social media output, and on the SCA website. SCA will not use unauthorised images of non-SCA personnel without the prior agreement of the Client.

## **16. Evaluation & Feedback Mechanism**

- 16.1. SimComm Academy routinely asks that course participants complete a questionnaire at the end of each course, in which they are asked to rate their pre- and post-course knowledge, competence and confidence on a range of learning outcomes. There may also be additional questions and answers, including free text space, giving participants the opportunity to provide additional qualitative feedback.
- a. Completion of the evaluation forms is not compulsory but SimComm Academy will assume that if course participants have completed the forms, they consent to their anonymised responses being used as outlined below
  - b. The identity of individuals completing the evaluation forms will always be anonymised.
  - c. SimComm Academy will use the data for our internal course quality assurance process in order to adapt and improve courses and participant experience.



- d. The anonymised data will also be used for evaluation reports which will be shared with the clients/ commissioners
- e. Evaluation data will be used for marketing and academic purposes, including but not restricted to case studies, blogs, social media posts, abstracts and journal publications. Clients/ commissioners will be anonymised in addition to the individuals for these purposes, unless otherwise agreed.

## **17. General**

- 17.1. No variation or amendment to the terms of these terms and conditions shall be valid and binding unless in writing and signed by an authorised representative of each party.
- 17.2. Except where these terms and conditions expressly provides otherwise, a person who is not a party to these terms and conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these terms and conditions but this does not affect any right or remedy of a third party which exists or is available apart from under that Act. The Client acknowledges, accepts and agrees that SCA has entered into these terms and conditions for the benefit of itself and the Simulator and accordingly the Simulator shall be entitled to enforce these terms and conditions as if he/she were a party to these terms and conditions.
- 17.3. The parties agree that these terms and conditions and its provisions will be governed by and construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.